HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27174 OF 2007

Dated:20.12.2007

Between:

M/s. S. Laxman,
Works Contractor,
Kamareddy, Nizamabad District,
Rep., by its Partner S. Ramulu.

..Petitioner

And

1. The Additional Commissioner (CT)(Legal)(FAC),
   Office of the Commissioner of Commercial Taxes,
   Nampally Station Road, Opp. Gandhi Bhavan,
   Hyderabad and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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WRIT PETITION No:27174 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the order, dated 31.8.2007 passed by the 1st respondent in CCT's Ref.No.L-III(4)/489/2007 for the assessment year 2001-2002, as illegal and unjustified.

The main grievance of the petitioner is that an appeal has been preferred before the Tribunal aggrieved by the order, dated 8.5.2007 passed by the 2nd respondent and the same is pending. The petitioner has also filed an application before the 1st respondent seeking stay of recovery of disputed tax pending disposal of the appeal before the Tribunal. But, the said application was rejected. Hence, the present writ petition is preferred by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that an appeal is pending before the Tribunal as to the assessment of disputed tax and in such a situation, rejection of stay application by the 1st respondent pending the appeal is unjustified and at this juncture, if the relief as to the stay of the proceedings is not entertained and if the

recovery of the disputed tax in question is effected during the pendency of the appeal before the Tribunal, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeal before the Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions.

Accordingly, there shall be stay of recovery of disputed tax till the disposal of the appeal pending before the Tribunal subject to the condition of the petitioner depositing balance disputed tax of Rs.80,000/- within a period of eight weeks from today. On such deposit, the appeal shall be disposed of within a period of three (3) months.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice C.V. Nagarjuna Reddy

Date: 20th December, 2007
Note:
Issue CC in Two days.
(BO)
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27174 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

20/12/2007